STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of WYLEE JAMES SWAGART and MYKEAL LADD SWAGART, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL SWAGART,

Respondent-Appellant,

and

HEATHER ELMERS,

Respondent.

UNPUBLISHED
July 7, 2005

No. 259529
LC No. 03-000087

Before: Cooper, P.J., and Fort Hood and R.S. Gribbs*, JJ.

PER CURIAM.

Respondent-appellant Michael Swagart appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). On appeal, respondent-appellant's only contention is that a guardianship or power of attorney would have been a more appropriate alternative over termination, as the children were placed with their maternal grandmother. He argues that these alternatives would have been in the children's best interests because termination only served to deprive the children of any relationship to their natural parents. We affirm.

The trial court properly terminated respondent-appellant's parental rights, rather than establishing a guardianship or power of attorney, as it determined that the statutory grounds for termination of parental rights were established by clear and convincing evidence. We review a trial court's decision to terminate parental rights for clear error.[1] If the trial court determines that

[1] MCR 3.997(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate the respondent's parental rights unless it finds from the record evidence that termination is clearly not in the child's best interests.[2] We review the trial court's determination regarding the child's best interests for clear error.[3]

The evidence showed that respondent-appellant had little contact with the children during the course of this proceeding, particularly once they were removed from their mother's care and placed with their maternal grandmother in December 2003. Respondent-appellant did not visit or provide financial, physical or emotional support for the children during the course of this proceeding. He did not sufficiently engage in services to rectify his drug abuse and lack of proper parenting. He failed to appear at most court hearings, including the termination hearing. The evidence clearly showed that respondent-appellant had effectively abandoned the children, that he had not rectified the conditions leading to adjudication, and that the children would suffer harm in his care.

Respondent-appellant also failed to establish that termination was contrary to the child's best interests. The evidence showed that respondent-appellant did not voluntarily place the children with their maternal grandmother, that at the time of termination the maternal grandmother was reluctant to commit to caring for the children over the long term, and that continued contact with respondent-appellant would be detrimental to the children. A guardianship or power of attorney would provide respondent-appellant or the children's mother the opportunity to petition the court for change of custody at any time. As there was no reasonable expectation that the parents would be able to care for the children within a reasonable time, these alternatives would prevent the creation of a permanent, stable home environment.

Affirmed.

/s/ Jessica R. Cooper
/s/ Karen M. Fort Hood
/s/ Roman S. Gribbs

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[2] MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

[3] *Id.* at 356-357.